

(c) *Nonresident actual owner.* If the actual owner is a nonresident, the actual owner's declaration shall not be accepted as compliance with section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), unless there is filed therewith the owner's bond on Customs Form 301, containing the bond conditions set forth in §113.62 of this chapter, with a resident corporate surety.

(d) *Filing of declaration of owner for purposes other than relief from liability.* Nothing in this section shall be construed to prevent the nominal consignee from filing the actual owner's declaration without the superseding bond for purposes other than relief from statutory liability for the payment of increased and additional duties under the provisions of section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)).

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 74-212, 39 FR 28420, Aug. 7, 1974; T.D. 79-221, 44 FR 46816, Aug. 9, 1979; T.D. 84-213, 49 FR 41184, Oct. 19, 1984]

Subpart C—Powers of Attorney

§ 141.31 General requirements and definitions.

(a) *Limited or general power of attorney.* A power of attorney may be executed for the transaction by an agent or attorney of a specified part or all the Customs business of the principal.

(b) [Reserved]

(c) *Minor agents.* A power of attorney to a minor shall not be accepted.

(d) *Definitions of resident and non-resident.* For the purposes of this subpart, "resident" means an individual who resides within, or a partnership one or more of whose partners reside within, the Customs territory of the United States or the Virgin Islands of the United States, or a corporation incorporated in any jurisdiction within the Customs territory of the United States or in the Virgin Islands of the United States. A "nonresident" means an individual, partnership, or corporation not meeting the definition of "resident."

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 84-93, 49 FR 17754, Apr. 25, 1984]

§ 141.32 Form for power of attorney.

Customs Form 5291 may be used for giving power of attorney to transact Customs business. If a Customs power of attorney is not on a Customs Form 5291, it shall be either a general power of attorney with unlimited authority or a limited power of attorney as explicit in its terms and executed in the same manner as a Customs Form 5291. The following is an example of an acceptable general power of attorney with unlimited authority:

KNOW ALL MEN BY THESE PRESENTS,
THAT

(Name of principal)

_____,
(State legal designation, such as corporation, individual, etc.) residing at _____ and doing business under the laws of the State of _____, hereby appoints _____

(Name, legal designation, and address)
as a true and lawful agent and attorney of the principal named above with full power and authority to do and perform every lawful act and thing the said agent and attorney may deem requisite and necessary to be done for and on behalf of the said principal without limitation of any kind as fully as said principal could do if present and acting, and hereby ratify and confirm all that said agent and attorney shall lawfully do or cause to be done by virtue of these presents until and including _____, (date) or until notice of revocation in writing is duly given before that date.

Date _____, 19__.

(Principal's signature)

§ 141.33 Alternative form for non-commercial shipment.

An individual (but not a partnership, association, or corporation) who is not a regular importer may appoint another individual as his unpaid agent for Customs purposes by executing a power of attorney applicable to a single non-commercial shipment by writing, printing, or stamping on the invoice, or on a separate paper attached thereto, the following statement:

_____; of
(Name)

(Address)

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is hereby authorized to execute, as an unpaid agent who has knowledge of the facts, pursuant to the provisions of section 485(f), Tariff Act of 1930, as amended, the consignee's and owner's declarations provided for in section 485 (a) and (d), Tariff Act of 1930, as amended, and to enter on my behalf or for my account the goods described in the attached invoice which contains a true and complete statement of the facts concerning the shipment.

Date _____, 19__.

(Signature of importer)

(Address)

§ 141.34 Duration of power of attorney.

Powers of attorney issued by a partnership shall be limited to a period not to exceed 2 years from the date of execution. All other powers of attorney may be granted for an unlimited period.

[T.D. 84-93, 49 FR 17754, Apr. 25, 1984]

§ 141.35 Revocation of power of attorney.

Any power of attorney shall be subject to revocation at any time by written notice given to and received by the port director.

§ 141.36 Nonresident principals in general.

A power of attorney executed by a nonresident principal shall not be accepted unless the agent designated thereby is a resident and is authorized to accept service of process against such nonresident.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 84-93, 49 FR 17754, Apr. 25, 1984]

§ 141.37 Additional requirements for nonresident corporations.

If a nonresident corporation has not qualified to conduct business under state law in the state in which Customs district the agent is empowered to perform the delegated authority, the power of attorney shall be supported by documentation establishing the authority of the grantor designated to execute the power of attorney on behalf of the corporation.

[T.D. 84-93, 49 FR 17754, Apr. 25, 1984]

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§ 141.38 Resident corporations.

A power of attorney shall not be required if the person signing Customs documents on behalf of a resident corporation is known to the port director to be the president, vice president, treasurer, or secretary of the corporation. When a power of attorney is required for a resident corporation, it shall be executed by a person duly authorized to do so.

[T.D. 84-93, 49 FR 17754, Apr. 25, 1984]

§ 141.39 Partnerships.

(a)(1) *General.* A power of attorney granted by a partnership shall state the names of all members of the partnership. One member of the partnership may execute a power of attorney in the name of the partnership for the transaction of all its Customs business.

(2) *Limited partnership.* A power of attorney granted by a limited partnership need only state the names of the general partners who have authority to bind the firm unless the partnership agreement provides otherwise. A copy of the partnership agreement must accompany the power of attorney. For this purpose, a partnership or limited partnership means any business association recognized as such under the laws of the state where the association is organized.

(b) *Change in partners.* When a new firm is formed by a change in membership, no power of attorney filed by the antecedent firm shall thereafter be recognized for any Customs purpose.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 86-204, 51 FR 42999, Nov. 28, 1986]

§ 141.40 Trusteeships.

A trustee may execute a power of attorney for the transaction of Customs business incident to the trusteeship.

§ 141.41 Surety on Customs bonds.

Powers of attorney to sign as surety on Customs bonds are subject to the requirements set forth in part 113 of this chapter.

[T.D. 73-175, 38 FR 17447, July 2, 1973, as amended by T.D. 74-227, 39 FR 32023, Sept. 4, 1974]